

ORDINANCE NO. 04-262

ORDINANCE OF THE COUNCIL OF THE CITY OF LOS ALTOS
REPEALING CHAPTER 4.24 ENTITLED "PEDDLERS AND SOLICITORS"
IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 4.24
ENTITLED "PEDDLERS AND SOLICITORS"

WHEREAS, in January 2004 police in Los Altos and in the nearby municipalities of Menlo Park, Los Altos Hills and Palo Alto arrested peddlers and solicitors on charges of sexual assault, battery, making criminal threats and burglary; and

WHEREAS, adopting laws which protect the safety and security of City of Los Altos ("City") residents while in their residences is of great importance to the City Council and is within the police power of the City; and

WHEREAS, the City Council has determined that the City's existing ordinance regulating peddling and soliciting should be amended to reflect the United States Supreme Court's most recent opinions on the constitutionality of laws regulating peddlers and solicitors as well as applicable state laws and regulations; and

NOW THEREFORE, the City Council of the City of Los Altos does ordain as follows:

SECTION 1. Chapter 4.24 of Title 4 of the Los Altos Municipal Code entitled "Peddlers and Solicitors" is hereby deleted in its entirety and replaced with a new Chapter 4.24 to read as follows:

4.24.010. Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Peddler" shall mean any person who goes from house to house, or from place to place, in the City (i) selling or taking orders for the immediate delivery of, or (ii) offering for sale or taking orders for immediate delivery of, any goods, wares, merchandise, services or anything of value in the possession of the peddler.
- (b) "Person" means any individual, partnership, firm, association, corporation, joint venture or any other combination of one or more individuals for the purpose of doing business.
- (c) "Solicitor" shall mean any person who goes from house to house, or from place to place, in the City (i) selling or taking orders for the future delivery of, or (ii) offering to sell or take orders for the future delivery of, goods, wares, merchandise, services or other things of value.

4.24.020. Permit Required, Exemption.

- (a) Permit Required. It shall be unlawful for any person to engage in business as a peddler or solicitor within the City unless such person has obtained a permit to do so. Each individual peddler or solicitor shall obtain a permit. In addition, the peddler or solicitor must be in compliance with the City's business license requirements.

- (b) Exemption. A peddler or solicitor who offers for sale only goods or services with an asking price of less than ten dollars (\$10.00) per item is exempt from the permit requirements of this chapter including the payment of fees. Such peddlers and solicitors are subject to Section 4.24.070 (Hours of Soliciting and Peddling) and Section 4.24.080 (Posted Premises).

4.24.030. Application

Any person desiring to conduct any of the activities set forth in Section 4.24.010 of this chapter shall file with the City Clerk a verified application on a form furnished by the City, setting forth the following information:

- (a) The name of the Peddler or Solicitor.
- (b) The legal and local (if any) address of the Peddler or Solicitor.
- (c) A brief description of the nature of the business, and the goods, wares, merchandise and services to be sold or furnished.
- (d) If employed, the name and address of the person by whom the Peddler or Solicitor is employed, with evidence establishing the exact relationship.
- (e) The length of time the applicant wishes to do business within the City (up to sixty (60) days).
- (f) If a vehicle is to be used, a description of the same, together with license number or other means of identification.
- (g) A statement as to whether or not the applicant has been convicted of a crime, felony or misdemeanor, the nature and date of the offense and the punishment or penalty assessed therefore.
- (i) Such other information and other evidence of good moral character and/or identity of each Peddler or Solicitor as may be reasonably required by the City Manager or Chief of Police.
- (j) All information required by Section 4.24.030 shall be submitted under penalty of perjury.

4.24.40 Application Fee

The application fee for a Peddlers and Solicitors permit shall be established by a resolution of the City Council.

4.24.050. Investigation

- (a) Peddler or Solicitor - Fingerprints Required

At the time of making the application for a permit, each Peddler or Solicitor shall present him/herself at the office of the City Clerk for the purpose of obtaining the fingerprinting forms provided by the City. The City shall supply to the permit applicant the names and locations of where the applicant may have their fingerprints taken. Such fingerprint records are to be taken in triplicate and each individual so

presenting him/herself is advised that the City reserves the right to retain one of such fingerprint records in its files for permanent safekeeping, and to send one such fingerprint record to the Federal Bureau of Investigation of the Department of Justice at Washington, D.C., and to the Criminal Investigation Department of the California Department of Justice at Sacramento, California, for the purpose of filing. No fingerprint records will be returned in the event the permit applied for is not issued or is subsequently suspended or revoked.

(b) **Peddler or Solicitor – Investigation – Character and Business Responsibility.**

The original copy of the permit application, including the permit applicant's fingerprint forms, shall promptly be referred to the Chief of Police, who shall promptly make an investigation of the applicant's character and business responsibility as it pertains to the City's review. If the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application the Police Chief's disapproval and the reason therefor and return the application to the City Manager, or his or her designee. The City Manager shall notify the applicant that the application is disapproved and that no permit will be issued. If the Chief of Police finds that the applicant's character and business responsibility are satisfactory, the Police Chief shall approve the application and return it to the City Manager, who shall promptly issue the permit.

4.24.060 Appeals

Any person who has been denied the permit required by this chapter may appeal to the City Council by filing a written notice of appeal to the City Clerk within five (5) days after receiving notice of the rejection. The matter shall be heard at the next regular meeting of the City Council at which time the City Council shall hear and receive written and oral evidence upon all matters involved. The decision of the City Council shall be final upon all parties concerned.

4.24.070 Hours of Soliciting and Peddling

A permit issued for peddling and soliciting under the provisions of this chapter shall be valid only between the hours of 8:00 a.m. and 5:30 p.m., Monday through Saturday. It is unlawful for any peddler or solicitor, whether permitted or not, to enter upon any residential premises between the hours of 5:30 p.m. and 8:00 a.m.

4.24.080 Posted Premises

No person shall solicit or attempt to peddle or solicit at any residential premises where the occupant has posted a sign clearly and obviously visible from an access way used by the solicitor which states in letters at least three-fourths of an inch in height on a contrasting background, "No Soliciting," "Soliciting Prohibited," "No Soliciting Allowed" or "No Solicitors Allowed." Nor shall any person peddle or solicit or attempt to peddle or solicit at such premises where the occupant has posted in such a manner a sign, which states in substance the same prohibition with reference to peddlers or solicitors.

4.24.090 Permit Display

The permit issued under the provisions of this chapter shall be in possession of the permittee at all times when engaged in the peddling or soliciting so permitted with the City.

4.24.100 Revocation

Permits issued under the provisions of this chapter may be suspended or revoked by the City Manager, or his or her designee, for any of the following reasons:

- (a) Misrepresentation or false statements contained in the application for the permit.
- (b) Misrepresentation or false statement made in the course of carrying on the business of peddling or soliciting.
- (c) Conviction of any crime or misdemeanor involving moral turpitude.
- (d) Conducting the business of peddling or soliciting in an unlawful manner, or in such a manner as to constitute a breach of the peace and to constitute a menace to the health, safety and morals or general welfare of the public.
- (e) Any violation of this chapter.

4.24.110 Revocation; Appeal

Upon revocation of any permit issued under the provisions of this chapter, the City Manager shall make the findings and reasons for revocation and transmit them to the City Clerk who shall notify the permittee. The permittee whose permit has been revoked may appeal to the Council by filing a written notice of appeal to the City Clerk within five (5) days after the notification of the revocation.

4.24.120 Term

Each permit issued under the provisions of this chapter shall be valid for sixty (60) days unless otherwise revoked as provided in this chapter.

4.24.130 Other Conditions and Regulations.

The following conditions and regulations shall also apply to the exercises of the privileges granted by permits issued under the provisions of this chapter in addition to those set forth in other parts of this chapter or elsewhere in this code:

- (a) Every peddler or solicitor issued a permit must be in possession of the permit at all times when engaged in the business so permitted within the City. The peddler or solicitor must produce and show the permit on the demand of any person solicited or of any public safety officer or official of the city. No person issued a permit shall alter, remove or obliterate any entry made upon such permit, or deface such permit in any way. Each permit shall be personal and not assignable or transferable, nor shall any permit be used by any person other than the permittee.
- (b) Every peddler or solicitor, upon the request of any public safety officer or official of the City, shall sign the peddler's or solicitor's name for comparison with the signature upon the permit.
- (c) Every solicitor who peddles any goods, wares, merchandise, services or anything of value, or solicits orders of any goods, wares, merchandise, services or anything of value for future delivery shall, if requested by the customer, provide a receipt plainly

stating the quantity of each article or commodity ordered, the price to be paid therefor, the total amount ordered and the amount to be paid on or after delivery.

- (d) Every peddler or solicitor shall, if requested by the customer, provide his/her name, business address and telephone number and the name, business address and telephone number of the person, organization, or entity on whose behalf solicitation is being made.

4.24.140 Distribution of Handbills-Excluded

Nothing in this chapter shall prohibit persons from distributing handbills door-to-door within the City without permits.

4.24.150 Violations-Penalties

Violations of any provision of this chapter shall be a misdemeanor and shall also constitute a public nuisance. In addition to any criminal enforcement, the City or any individual may pursue any available civil remedies deemed necessary. In a civil action, the prevailing party shall be able to recover reasonable attorneys fees.

SECTION TWO: Effective Date: This ordinance shall be effective on the thirty-first day after the date of its adoption.

The above and foregoing ordinance was duly and properly introduced at the regular meeting of the Los Altos City Council held on April 13, 2004, and was thereafter, at a regular meeting of the Los Altos City Council held on April 27, 2004, duly passed and adopted by the following roll call vote:

AYES: COLE, PACKARD, CASAS, LEAR, MOSS

NOES: NONE

ABSENT: NONE

APPROVED:



John Moss, Mayor

ATTEST:



Susan Kitchens, City Clerk

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